

REMARKS/ARGUMENTS

New claims 5-25 are active. Claims 5-13 describe a method involving measuring the decrease in fatty acid hydroperoxides. Claims 14-25 describe a similar method that measures increases in the degradation products of fatty acid hydroperoxides. Each method is useful for determining the amount of fatty acid hydroperoxide lyase in a malt sample. These claims find support in the original claims and disclosure as follows: claim 5 (claims 1 and 3; page 7, lines 8-14; page 8, lines 4-9), claim 6 (page 11, line 7), claim 7 (sentence bridging pages 6-7), claim 8 (page 9, line 3), claim 9 (section bridging pages 8-9; page 18, lines 12-15), claims 10-12 (page 9, lines 12-14), claim 13 (claims 1 and 3, section bridging pages 8-9). Claim 14 (claims 1 and 2; paragraph bridging pages 6-7), claim 15 (page 11, line 7) , claim 16 (sentence bridging pages 6-7), claim 17 (page 7, lines 21-22), claim 18 (top of page 8), claim 19 (bottom of page 8), claims 20-22 (page 9, lines 12-14), claim 23 (claims 1 and 2, pages 6-7), claims 24 and 25 (claims 1 and 4, paragraph spanning pages 4-5). Cautious edits have been made to the specification to address the Examiner's concerns, but avoid raising any issue of new matter. Accordingly, the Applicants believe that no new matter has been introduced. Favorable consideration of this Amendment and allowance of this application are now respectfully requested.

Aspects of the Invention

The inventors have discovered that undesirable flavors are imparted to malt-based beverages when malts containing high amounts of fatty acid hydroperoxide lyases are used. These lyases degrade oxidized fatty acids in the malt to produce components such as aldehydes and trans-2-nonenal that impart undesirable flavors, such as a stale flavor (specification, page 3, line 12). The process producing these degradation products from malt that contains hydroperoxide lyases is illustrated below:

Malt + fatty acids + oxygen → Malt + fatty acid hydroperoxides → Malt + lyase-degraded fatty acid hydroperoxides (e.g., aldehydes, trans-2-nonenal).

Lack of Unity/Restriction/Election

The Applicants previously elected with traverse **Group I**, claims 1-3, directed to a method to screen for malt. The Applicants respectfully request that the claims of the nonelected group(s) or other withdrawn subject matter which depend from or otherwise include all the limitations of an allowed elected claim, be rejoined upon an indication of allowability for the elected claim, see MPEP 821.04.

Objection—Specification

The specification was objected to for not describing on page 1 the continuing data. The specific reference to priority documents may now be included in an ADS, see MPEP 201.11 (III). The priority documents are described in the previously filed ADS. Therefore, this objection may now be withdrawn.

Objection—Specification

The specification was objected to under 35 U.S.C. §112, first paragraph, as lacking clarity for use of abbreviations such as “etc.”. This term is well-known and commonly used to describe unspecified items similar to those already listed, as shown in the attached dictionary definition, also available at:

<http://www.wordsmyth.net/live/home.php?script=search&matchent=et+cetera&matchtype=exact>. Nevertheless, this abbreviation has been replaced by its definition in the portions of the specification indicated in the objection. Accordingly, the Applicants respectfully request that this objection be withdrawn.

Rejection—35 U.S.C. §112, second paragraph

Claims 1-3 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

This rejection is moot in view of the amendments above.

Rejection—35 U.S.C. §103(a)

Claims 1-3 were rejected under 35 U.S.C. §103(a) as being unpatentable over Olias, et al., JAFC 38:624, in view of Wikipedia (2009). This rejection is moot in view of the cancellation of the prior claims.

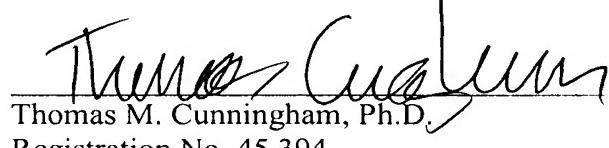
Olias discloses partial purification of fatty acid hydroperoxide lyase from soybean seeds and indicates that this lyase degrades fatty acid peroxides to produce aldehydes (see abstract). Olias does not disclose a malt, which is produced from a cereal grain, see Wikipedia, <http://en.wikipedia.org/wiki/Malt> (attached). Cereal grains are described at <http://en.wikipedia.org/wiki/Cereal> (attached). On the other hand, the soybean of Olias is a legume. Moreover, the Wikipedia (2009) entries are not prior art. Accordingly, this rejection would not apply to the new claims.

Conclusion

This application presents allowable subject matter and the Examiner is respectfully requested to pass it to issue. The Examiner is kindly invited to contact the undersigned should a further discussion of the issues or claims be helpful.

Respectfully submitted,

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